NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ADMINISTRATION

PREAMBLE

1.	**Sections Affected**	**Rulemaking Action**
	R9-22-712.35	Amend
	R9-22-712.40	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-2903.01

Implementing statute: A.R.S. § 36-2903.01(H)(3)

3. The effective date of the rules:

The AHCCCS Administration is requesting an immediate effective date upon filing with the Secretary of State on October 1, 2007. The rulemaking resulted from a discrepancy found in the estimated outpatient reimbursement for Critical Access Hospitals (CAH), where they have been negatively impacted; this change in rulemaking is required to begin with the new contract year 07/08.

An immediate effective date is authorized under A.R.S. § 41-1032 (A)(4) because the rule provides a benefit to the public and a penalty is not associated with a violation of the rule. The rule provides a benefit to the public by providing a fair reimbursement rate to the CAH hospitals that provide outpatient services to AHCCCS members in their areas.

4. A list of all previous notices appearing in the *Register* addressing the proposed rules:

Notice of Docket Opening: 13 A.A.R. 41, January 5, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 1779, May 25, 2007

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Mariaelena Ugarte

Address: AHCCCS
Office of Administrative Legal Services
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Phoenix, AZ 85034

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6. An explanation of the rule, including the agency's reasons for initiating the rule:

The rules have been updated with an adjustment to the percentage applicable to Critical Access Hospitals (CAH). As of July 1, 2005 a new Outpatient Capped Fee for Service Schedule was created for outpatient payments. In addition to the regular payment that is calculated and described in the new schedule from 2005 a percentage adjustment to this amount was also required for those rural hospitals and specialty services.

From a recent review of data it has been substantiated that the majority of CAH's have been negatively impacted by the estimated adjustment percentage that was applied in 2005. This was contrary to what the Administration had forecasted in 2005. The Administration believes that with the proposed change in the adjustment fee percentage to 115 percent, five of eight CAH facilities will no longer be negatively impacted when compared to payments based on an updated CCR had no methodology change occurred.

In addition to the adjustment fee impact, it was also noted that a need to clarify rule R9-22-712.40 was needed to describe that the Administration may update new and revised procedure codes and APC groups.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

No study was reviewed or used to rely on for the changes applicable to the proposed rules.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The AHCCCS Administration believes that with the proposed change in the adjustment fee percentage to 115 percent, five of eight CAH facilities will no longer be negatively impacted by the new payment methodology.

This change is estimated to have a fiscal impact to AHCCCS of approximately $1.5 million based on current utilization.

The clarification provided in reference to the procedure codes and APC groups is estimated to have a nominal impact since it only clarifies how new and existing procedure codes and APC groups are updated.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

No significant changes were made between proposed and final rulemaking. The Administration has made the rules more clear, concise, and understandable by making grammatical, verb tense, punctuation, and structural changes throughout the rules.

11. A summary of the comments made regarding the rule and the agency response to them:

A letter was received June 27, 2007 from Arizona Hospital and Healthcare Association providing their support of the rule change. No comments or recommendations were given in controversy to the proposed language; therefore a response from the agency was not necessary.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-712.35. Outpatient Hospital Reimbursement: Adjustments to Fees

A. AHCCCS shall increase the fees established under R9-22-712.20 (except for laboratory services) for the following hospitals submitting any claims:

1. By 48 percent for public hospitals on July 1, 2005, as well as hospitals that were public in calendar year 2004.
2. By 45 percent for hospitals in counties other than Maricopa and Pima with more than 100 Medicare PPS beds during the year in which the rates are effective.
3. By 50 percent for hospitals in counties other than Maricopa and Pima with 100 or less Medicare PPS beds during the year in which the rates are effective.
4. By ~~92~~ 115 percent for hospitals designated as Critical Access Hospitals, or for hospitals that have not been designated as Critical Access Hospitals, but meet the criteria.
5. By 113 percent for a freestanding children's hospital with at least 110 pediatric beds.
6. By 14 percent for a University Affiliated Hospital defined as those hospitals that have a majority of the member of its board of directors appointed by the Board of Regents.

B. In addition to subsection (A) the following increase may be established: A 50 percent adjustment for a Level 2 and 3 emergency department procedures billed by a level 1 Trauma center as defined by R9-22-2101.

C. Fee adjustments in subsection (A) are available with the AHCCCS Outpatient Capped Fee-For Service Schedule on file and online with AHCCCS.

R9-22-712.40. Outpatient Hospital Reimbursement: Annual and Periodic Update

A. Procedure Codes. AHCCCS shall add new procedure codes for covered outpatient services and shall either assign the default CCR, the Medicare rate, or calculate an appropriate fee when procedure codes are issued by CMS or the Current Procedural Terminology published by the American Medical Association.

B. APC Changes. AHCCCS may reassign procedure codes to new or different APC groups when APC groups are revised by Medicare. AHCCCS may reassign procedure codes to a different APC group than Medicare. If AHCCCS determines that utilization of the code within the Medicare program is substantially different from the AHCCCS program, AHCCCS may not assign any APC. For procedure codes not grouped into an APC by Medicare, AHCCCS may assign the code to an APC group when AHCCCS determines that the cost and resources associated with the non-assigned code are substantially similar to those in a particular APC group.

~~B~~C. Annual Update ~~For~~ for Outpatient Hospital Fee Schedule. Beginning October 1, 2006, AHCCCS shall adjust outpatient fee schedule rates:

1. On an annual basis by multiplying the rates effective during the prior year by the Global Insight Prospective Hospital Market Basket Inflation Index; or
2. In any given year the director may substitute the increases in (B)(1) by calculating the dollar value associated with the inflationary increase in (B)(1), and applying that dollar value to adjust rates at varying levels.

~~C~~D. Rebase. AHCCCS shall rebase the outpatient fees every five years.

~~D~~E. Statewide CCR. The statewide CCR shall be recalculated at the time of rebasing, at which time AHCCCS may consider recalculating the statewide CCR based on the costs and charges for those services excluded from the outpatient hospital fee schedule.